

## **REMARKS/ARGUMENTS**

### **Status of Claims**

The claims are repeated above without any amendments for the convenience of the Examiner.

### **Interview After Final**

On July 29, 2004, the Examiner granted an interview to discuss the outstanding 35 U.S.C. §103 rejection. No agreement was sought nor was any agreement reached in this interview as this was just a courtesy call to explain our argument presented below. The Applicant especially appreciates this opportunity as interviews after final are discretionary.

### **35 U.S.C. §103 Rejection, Shlomot et al. in view of Shepard**

The final Office Action has rejected claims 20 and 26-46 under 35 U.S.C. §103(a) as being unpatentable over the cited portions of U.S. Patent No. 5,699,481 to Shlomot et al. (hereinafter "Shlomot") in view of the cited portions of U.S. Patent No. 5,943,347 to Shepard (hereinafter "Shepard"). With regard to the third prong of the *prima facie* obviousness test, Applicants believe that Shlomot and Shepard teach or suggest at least one limitation in the claims. More specifically, there is no teaching or suggestion in Shlomot or Shepard of:

an expanded portion that "corresponds to a different amount of the signal than either the first or the second received frames" as required by all independent claims.

In both references, each received frame always corresponds to a played frame. That is to say that a played frame, regardless of size, is always derived from a single received frame in both references. In the interests of clarity, the other patentability arguments are not being presented in this response, but Applicants preserve the right to present them on appeal.

The final Office Action takes the position that Shepard teaches the above captioned limitation. Final Office Action, paragraph 7. As explained in the interview, Applicants believe Shepard cannot be relied upon for such a teaching. Shepard does not have the

ability to dynamically change packet or frame size such that you could have a smaller frame between two full-size frames. Shepard teaches correcting packets to replace or repair them such that you always achieve a uniform packet size. Shepard, col. 4, lines 16-21. To assure consistent packet size, Shepard goes to great length in providing calculations on how to patch missing information by replicating the pitch period different numbers of times based upon the frequency and amount of missing information. Shepard, col. 4, lines 26-50.

Although not cited for the limitation in question, Shlomot cannot be relied upon either for teaching the above captioned limitation. Shlomot never takes a varying portion of the received signal to produce the played signal. Shlomot always takes a single received frame when producing a played frame. Accordingly, Shlomot cannot be relied upon to teach or suggest this limitation either.

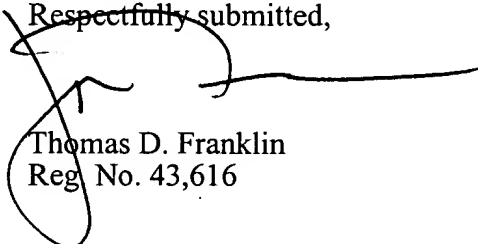
Reconsideration of the rejection is respectfully requested.

### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

  
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